

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LECG, LLC, a California limited liability company,

Plaintiff,

v.

SANJAY UNNI, an Individual,

Defendant.

No. C-13-0639 EMC

**ORDER GRANTING DEFENDANT’S
MOTION FOR STAY OF EXECUTION
OF JUDGMENT THROUGH APPEAL
AND APPROVAL OF SUPERSEDEAS
BOND**

(Docket No. 83)

SANJAY UNNI, an Individual,

Counter-Plaintiff,

v.

LECG, LLC, a California limited liability company,

Counter-Defendant.

On May 23, 2014, the Court granted Plaintiff’s Motion for Summary Judgment and entered a judgment against Defendant Sanjay Unni (“Unni”) in the amount of \$366,790. *See generally* Order, Dkt. No. 77; Judgment in a Civil Case, Dkt. No. 78. Unni now requests that the Court, pursuant to Rule 62(d) of the Federal Rules of Civil Procedure, (1) order a stay of execution of judgment through appeal and (2) approve its supersedeas bond. Defendant’s Motion for Stay (“Motion”), Dkt. No. 83, 1:12-17. The motion will be **GRANTED**.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DISCUSSION

A. Legal Standard Under Federal Rule of Civil Procedure 62(d)

A party taking an appeal from a District Court in the federal system is entitled to a stay of a money judgment “as a matter of right” by posting a bond in accordance with Federal Rule of Civil Procedure 62(d). *United States v. Boyce*, 148 F. Supp. 2d 1069, 1096 (S.D. Cal. 2001); *see also Ryan v. Editions Ltd. West, Inc.*, No. 06-cv-04812-PSG, 2013 WL 417814 (N.D. Cal. Feb. 1, 2013) (“[A]n appellant may obtain a stay as a matter of right by posting a supersedeas bond acceptable to the court.”) (quoting *Matter of Combined Metals Reduction Co.*, 557 F.2d 179, 193 (9th Cir. 1977)). Rule 62(d), titled “Stay with Bond on Appeal” states, “[i]f an appeal is taken, the appellant may obtain a stay by supersedeas bond, except in an action described in Rule 62(a)(1) or (2). The bond may be given upon or after filing the notice of appeal or after obtaining the order allowing the appeal. The stay takes effect when the court approves the bond.” Fed. R. Civ. P. 62(d). Rule 62(a) states that “(1) an interlocutory or final judgment in an action for an injunction or a receivership; or (2) a judgment or order that directs an accounting in an action for patent infringement” should not be “stayed after being entered, even if an appeal is taken.” Fed. R. Civ. P. 62(a).

This case does not involve (1) an interlocutory or final judgment in an action for an injunction or a receivership or (2) a judgment or order that directs an accounting in an action for patent infringement. Plaintiff LECG, LLC filed suit against Unni alleging breach of contract and unjust enrichment related to an employment agreement. Order at 1:25-26. The Court ordered a solely monetary judgment. Order at 17:2-3. Thus, this case does not fall under either Rule 62(a) exception. Further, the bond was given on June 19, 2014, after Unni filed the notice of appeal on June 13, 2014. Notice of Appeal, Dkt. No. 81. Accordingly, the stay takes effect when the Court approves the bond.

B. Validity of Supersedeas Bond

The Northern District’s Civil Local Rules allow the Court to use its discretion in deciding whether to approve a supersedeas bond. N.D. Cal. L. R. 65.1-1; *see also Finley v. Hartford Life & Acc. Ins. Co.*, C-06-6247 CW, 2010 WL 2762737, at *2 (N.D. Cal. July 13, 2010) (“District courts

1 have inherent discretionary authority . . . in setting the amount of a supersedeas bond.” (citation
2 omitted)). Nonetheless, “[g]enerally, district courts should attempt to achieve full satisfaction of a
3 judgment in setting a supersedeas bond.” *Finley*, 2010 WL 2762737, at *2. In the present case,
4 Unni has posted a valid supersedeas bond in the amount of \$550,185, or 150% of the judgment.
5 Motion, Exh. 1,2. Accordingly, the Court will approve Unni's supersedeas bond.

6
7 For the reasons stated above, the Court **GRANTS** Unni’s Motion, and approves the
8 supersedeas bond and orders the execution of judgment in this action stayed through appeal.

9
10 **IT IS SO ORDERED.**

11
12 Dated: July 25, 2014.

13
14 

15 EDWARD M. CHEN
16 United States District Judge
17
18
19
20
21
22
23
24
25
26
27
28